IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3196 of 2004

For Approval and Signature:

HON'BLE MR.JUSTICE M.R.SHAH

==========

1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

GANGABEN W/O. LAKSHMANJI THAKOR

Versus

SURESHBHAI S JAIN

Appearance:

1. Special Civil Application No. 3196 of 2004

MR DHAVAL M BAROT for Petitioner No. 1-3

MR JITENDRA M PATEL for Respondent No. 1-5

NOTICE UNSERVED for Respondent No. 3-7

NOTICE SERVED BY DS for Respondent No. 6

Mr. KD Pandya, AGP for Respondent No. 7-9

CORAM : HON'BLE MR.JUSTICE M.R.SHAH

Date of decision: 05/07/2004

ORAL JUDGEMENT

In this petition under Article 226/227 of the COnstitution of India the petitioners have prayed for an appropriate writ, order or direction to stay

implementation, operation and execution of the orders dated 7th February 2004 and 18th April 2003 passed by Collector, Ahmedabad and City Deputy Collector, Ahmedabad respectively till outcome of Revision Application No. 15 of 2004 pending before the learned Special Secretary, Revenue Department (Appeals).

2. This Court has issued notice in the present Special Civil Application on 12th March 2004 and had granted ad-interim relief staying implementation, execution and operation of the orders dated 7th February 2004 and 18th April 2003 passed by the respondents No. 8 and 9 respectively and the same has been ordered to continue till date.

3. It is the contention of the petitioners that being aggrieved and dissatisfied with the order passed by the Collector, Ahmedabad, dated 7th February 2004 the petitioners had preferred the revision application along with application for stay before the learned Special Secretary, Revenue Department (Appeals), State of Gujarat, Ahmedabad, on 9th March 2004. However, as no order was passed on the said application, the petitioners were constrained to file the present Special Civil Application.

4. It is an admitted position that till date the stay application submitted by the petitioners in the said Revision Application No. 15 of 2004 is still pending and no decision has been taken by the revisional authority. Under the circumstances, the prayer to stay the implementation, operation and execution of the orders dated 7th February 2004 and 18th April 2003 passed by the Collector and Deputy Collector, Ahmedabad respectively till the outcome of the Revision Application No. 15/2004 pending before the learned Special Secretary, Revenue Department (Appeals), cannot be granted. However, in view of the pendency of the said stay application, the respondent No. 7, i.e. learned Special Secretary, Revenue Department (Appeals), State of Gujarat, Ahmedabad is directed to decide and dispose of the said stay application within a period of four weeks from the date of receipt of this order in accordance with law and on merits after giving opportunity of being heard to the petitioners. Till the said stay application is decided and disposed of, the ad-interim relief granted by this Court on 12th March 2004 is directed to be continued. The respondent No.3 shall decide and dispose of the stay application without being in any way influenced by the fact this Court had granted the ad-interim relief and has continued the same till the said stay application is

heard and decided. Rule is made absolute with no order as to costs.

[M.R. Shah, J.]

rmr.